

Moreover, the expressed concerns about the continued employment of individuals whose derogatory information Mr. Marceca noted also show that he believed that they were still employed at the White House at the time he obtained their background reports. This evidence further supports the conclusion that he believed that he was seeking the reports only of currently employed individuals at the White House and that he was unaware that any particular requests involved making a false representation to the FBI to obtain the reports.

C. Although Portions of Mr. Marceca's Testimony Before Congress Were False, the Independent Counsel Declined to Prosecute Him Because Such a Prosecution Would Not Vindicate the Independent Counsel's Mandate.

Having concluded that Mr. Marceca was not part of a conspiracy to obtain derogatory information about political opponents through fraudulent requests for the FBI background reports, the Independent Counsel also decided not to prosecute Mr. Marceca even though portions of his testimony before Congress were false. There were substantial inconsistencies between Mr. Marceca's testimony before Congress and other evidence regarding the process Mr. Marceca used to obtain background reports. In addition, Mr. Marceca's testimony regarding whether he read the content of background reports was both internally inconsistent and contrary to other evidence of his reading the reports. Nevertheless, the Independent Counsel concluded that Mr. Marceca's testimony was accurate with respect to the core issue